

**MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
January 06, 2014 6:00 PM**

STAFF PRESENT:

Erik Enyart, AICP, City Planner

ATTENDING:

See attached Sign-in Sheet

CALL TO ORDER

Meeting called to order by Chair Jeff Wilson at 6:02 PM.

ROLL CALL

Members Present: Jeff Wilson, Dave Hill, Darrell Mullins, Murray King, and Larry Whiteley.

Members Absent: None.

MINUTES

1. Approval of Minutes for August 05, 2013

Chair Jeff Wilson introduced the item and asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE the Minutes of August 05, 2013 as presented by Staff. Murray King SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Mullins, Wilson, Whiteley, & Hill

NAY: None.

ABSTAIN: None.

MOTION CARRIED: 5:0:0

OLD BUSINESS

Chair Jeff Wilson asked if there was any Old Business to consider. Erik Enyart stated that he had none. No action taken.

NEW BUSINESS

2. **BBOA-582 – Rosenbaum Consulting, LLC for Woodlake Assembly of God.**
Discussion and possible action to approve a Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow a Use Unit 5 church in an AG Agricultural District.
Property located: Part of the E/2 of the E/2 of Section 25, T18N, R13E; Southwest corner of the intersection of 104th St. S. (a.k.a. 103rd Pl. S.) and Mingo Rd.
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Chair Jeff Wilson introduced the item and called on Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

To: Bixby Board of Adjustment
From: Erik Enyart, AICP, City Planner
Date: Thursday, December 26, 2013
RE: Report and Recommendations for:
BBOA-582 – Rosenbaum Consulting, LLC for Woodlake Assembly of God

LOCATION: – Southwest corner of the intersection of 104th St. S. (a.k.a. 103rd Pl. S.) and Mingo Rd.

– Part of the E/2 of the E/2 of Section 25, T18N, R13E

SIZE: 27 acres, more or less

ZONING: AG General Agricultural District

SUPPLEMENTAL None.

ZONING:

EXISTING USE: Vacant / wooded

REQUEST: Special Exception per Zoning Code Section 11-7A-2 Table 1 to allow a Use Unit 5 church in an AG Agricultural District

SURROUNDING ZONING AND LAND USE:

North: RT/PUD 35 & RT/PUD 36; Attached single-family residential in Spicewood Pond and detached single-family residential in Spicewood Villas across 95th E. Ave. / 104th St. S. (a.k.a. 103rd Pl. S.).

South: RS-3; Single-family residential in Legends II.

East: (Across Mingo Rd.) R-1, R-2, and R-2/PUD-112; The Cedar Ridge Country Club and single-family residential in several “Cedar Ridge” subdivisions, all in the City of Broken Arrow.

West: RS-3 & RT/PUD 35; Detached single-family residential in Legends II zoned RS-3 and attached single-family residential in Spicewood Pond to the northwest across 95th E. Ave.

COMPREHENSIVE PLAN: Low Intensity + Vacant, Agricultural, Rural Residences, and Open Land

PREVIOUS/RELATED CASES:

BBOA-431 – Merwin Pickney of Woodlake Assembly of God for AGO Trust – Request for Special Exception to allow a Use Unit 5 church for subject property – BOA Approved 11/01/2004.

BBOA-583 – Rosenbaum Consulting, LLC for Woodlake Assembly of God – Request for Variance from certain landscaping tree requirements of Zoning Code Section 11-12-3.C for subject property – Pending BOA consideration 01/06/2014.

RELEVANT AREA CASE HISTORY: (not necessarily a complete list; case history not available in the City of Broken Arrow)

PUD 35 – Spicewood Pond – Tanner Consulting, LLC – Request for PUD approval and RT underlying zoning for Spicewood Pond abutting subject property to the northwest – PC Recommended Approval 11/15/2004 and City Council approved 12/13/2004 (Ord. # 899).

PUD 36 – Spicewood Villas – Tanner Consulting, LLC – Request for PUD approval and RT underlying zoning for Spicewood Villas abutting subject property to the north – PC Recommended Approval 12/20/2004 and City Council approved 01/24/2005 (Ord. # 900).

BZ-311 – Brumble Dodson Construction – Request for rezoning from AG to RS-3 for approximately 93 acres (now Legends, Legends II, and Village at Legends) abutting subject property to the west and south – PC Recommended Approval 08/15/2005 and City Council Approved 09/12/2005 (Ord. # 912).

PUD 36 Minor Amendment # 1 – Request for Minor Amendment to PUD 36 (abutting subject property to the north) to provide flexibility to allow for 0' and 10', or 5' and 5', or any combination of two (2) side yards which ultimately results in all dwellings maintaining a 10' separation between each other dwelling – PC Approved 09/17/2007.

BACKGROUND INFORMATION:

Per BBOA-431 – Merwin Pickney of Woodlake Assembly of God for AGO Trust, on November 01, 2004, the Board of Adjustment approved a Special Exception to allow a Use Unit 5 church on the subject property. The Mr. Pickney, per the Minutes of that meeting, stated “Spicewood and other [subdivisions] may be developed before we build [our] church which is probably three years away. We are looking at a 3 to 5 year program of relocation¹ to finance and pay for the land.” Nine (9) years later, the church is now proposing to construct a church campus on the subject property. However, Zoning Code Section 11-4-9.D provides, “Time Limit On Special Exceptions: A special exception which has not been utilized within three (3) years from the date of the order granting the same shall thereafter be void; provided, that the board has not extended the time for utilization. For the purposes of this provision, “utilization” shall mean actual use or the issuance of a building permit, when applicable, provided construction is diligently carried to completion.” Staff has found no record that the Board of Adjustment extended the time of utilization. Thus, the Special Exception approval expired on or around November 01, 2007.

ANALYSIS:

Subject Property Conditions. The subject property of 27 acres, more or less, is vacant and wooded and is zoned AG Agricultural District. It is believed to have been part of a former tree farm. It is moderately sloped and appears to drain to the south. It is in the Oliphant Drainage and Detention System / Fry Creek # 1 drainage basin.

Per the legal description, the subject property has 1,589.61' of frontage on Mingo Rd., and 974.34' of frontage on 95th E. Ave. / 104th St. S. (a.k.a. 103rd Pl. S.). The name of the east-west segment of the street is not clear. It was dedicated with Spicewood Villas as 104th St. S., and Staff has found no ordinance renaming it. That name was also recognized with the plat of Spicewood Pond (Plat # 5923 recorded 11/17/2005). However, it has “103rd Pl. S.” street signs, and the Tulsa County E-911 system recognizes it as “103rd Pl. S.”

Per the provided site plans, the church campus is proposed to ultimately occupy the north approximately 15.170 acres of the 27-acre tract.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Low Intensity and (2) Vacant, Agricultural, Rural Residences, and Open Land.

The existing AG zoning is in accordance with the Low Intensity designation of the Comprehensive Plan Land Use Map. As a Use Unit 5 church is allowed by Special Exception in the AG district, the proposed Use Unit 5 church should be considered not inconsistent with the Comprehensive Plan.

The Matrix does not indicate whether certain zoning districts would be in accordance with the Vacant, Agricultural, Rural Residences, and Open Land Land Use designation of the Plan Map. However, this Vacant, Agricultural, Rural Residences, and Open Land designation cannot be interpreted as permanently-planned land uses, and so the specific land use designation test as indicated on Page 7, item numbered 1 and page 30, item numbered 5 of the Comprehensive Plan, would not apply here.

Surrounding Zoning and Land Use Compatibility. Surrounding zoning consists entirely of R- residential districts and land use consists of attached and detached single-family residential in all directions.

To the north and west is attached single-family residential use in Spicewood Pond zoned RT/PUD 35 and detached single-family residential in Spicewood Villas across 95th E. Ave. / 104th St. S. (a.k.a. 103rd Pl. S.) zoned RT/PUD 36. Also to the west and to the south is detached single-family residential in Legends II zoned RS-3.

¹ Per discussions with the church's representatives, the subject property is now proposed to have a “satellite” campus, with the main church campus remaining at 7100 E. 31st St. S. in Tulsa.

Across Mingo Rd. to the east is R-1, R-2, and R-2/PUD-112 zoning containing the Cedar Ridge Country Club and single-family residential in several "Cedar Ridge" subdivisions, all in the City of Broken Arrow.

The subject property is quite large, and should have plenty of land area to allow for proper accessibility, parking, setbacks, signage, and lighting plans.

Per the Minutes of the November 01, 2004 Board of Adjustment meeting, attached in relevant part to this report, several homeowners in the "Cedar Ridge" subdivisions across Mingo Rd. in Broken Arrow were concerned about cut-through traffic. It appears that Twin Oaks Dr. connects Mingo Rd. to 101st St. S. via Yellowpine / Sequoia Aves. Per the provided site plan, the church campus would have two (2) driveway connections to Mingo Rd., neither of which would align with Twin Oaks Dr. Staff recommends that driveway / curb cut locations, drive widths, and curb return radii be approved by the Fire Marshal, City Engineer, and County Engineer as may be required.

The Staff Report for BBOA-431 recognized previous approvals of the Trinity Presbyterian Church at 9303 E. 111th St. S. and the Cedar Ridge Kingdom Hall of Jehovah's Witnesses at 11355 S. Mingo Rd. Per the Minutes of the Board of Adjustment meeting held February 02, 2004, the Trinity Presbyterian Church campus was approved for Special Exception per BBOA-417, and the Applicant agreed to plat the property during the meeting. The campus was platted as Trinity Presbyterian Church USA on July 19, 2004. Per the case file, the Board of Adjustment Denied Special Exception per BBOA-354 for the Cedar Ridge Kingdom Hall on April 03, 2000, but it was approved in District Court. That property was not platted. There is also a large Evergreen Baptist Church on a 40-acre campus to the southeast at 6000 W. Florence St. in Broken Arrow (perhaps also addressed 10301 E. 111th St. S., "Bixby" per its website, www.evergreenbc.org). It was platted as Evergreen Baptist Church Amended on August 24, 2006.

All the land that is now composed of Legends, Legends II, Village at the Legends, Spicewood Pond, Spicewood Villas, The Enclave at Legacy, Block 2 Lots 8-13, Trinity Presbyterian Church USA, the City's Oliphant Drainage and Detention System, the undeveloped commercial development acreages at the southwest corner of 101st St. S. and Mingo Rd. and the northwest corner of 111th St. S. and Mingo Rd., and several other areas, was originally owned by the AGO Trust (Oliphant), from whom the Applicant purchased the 27 acres. Other than the Trinity church campus, all these named subdivisions were platted and developed after the November 01, 2004 approval of the original Special Exception per BBOA-431. Thus, it was a matter of Public Record that the church use had been approved for the subject property before a single house was constructed or purchased in these surrounding neighborhoods.

Staff believes that, if properly planned to mitigate differences of scale and land use intensity between the subject property and surrounding single-family residential uses, the Use Unit 5 church use would be compatible with existing and future surrounding land uses and zoning patterns.

Scale and Intensity of Use. Churches tend to be fairly intensive land uses when developed, in terms of traffic, building scale, use activity, and infrastructure demands, and in that regard they are comparable to commercial and office developments. Recognizing that the Use Unit 5 church facility may be permitted in an AG district by Special Exception, rather than rezoning which would otherwise be required, the platting requirement of Zoning Code Section 11-8-13 is effectively circumvented.

A plat is an effective tool to ensure developments provide adequate right-of-way and easements to serve the development, and its accompanying increase in the intensity of use, and to facilitate the development of adjoining properties. Therefore, Staff recommends that any approval given for this or a similar land use be subject to a Plat or Plat Wavier with right-of-way and Utility Easement dedications by separate instrument, prior to the issuance of a building permit.

Conceptual site and landscape plans have been submitted with this application and are attached to this report. Although illustrative of design intent at this time, they are subject to change through the development and Building Permit review processes.

Staff Recommendation. Based on the Comprehensive Plan and surrounding zoning and land use patterns, Staff believes that the proposed Use Unit 5 church use would be in harmony with the spirit and intent of the Zoning Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff recommends Approval subject to the following Conditions of Approval:

1. If the subject property is divided, the Use Unit 5 church approval shall only attach to the lot or lots on which the church campus is constructed.

2. *Subject to the approval of a plat, or otherwise City Council approval of a Waiver of platting, which would be based on the provision of right-of-way and utility and other necessary easements by separate instrument.*
3. *Staff recommends that driveway / curb cut locations, drive widths, and curb return radii be approved by the Fire Marshal, City Engineer, and County Engineer as may be required.*

Chair Jeff Wilson asked if the Applicant was present and wished to speak on the item. Applicant Barrick Rosenbaum stated that he was representing the church, and also attending were [Woodlake Church Administrative Pastor] Merwin Pickney and contractor Mr. Goff of the Goff Companies[, LLC of Dallas, TX]. Mr. Rosenbaum stated that the church was all ready to get started on the project until they found it that their original approval had expired. Mr. Rosenbaum stated that this would not be a main campus but a satellite, and that the church would be keeping its existing church site. Mr. Rosenbaum stated that he had provided two (2) site plans, and that the first one showed Phases I and II, to allow the church to get started. Mr. Rosenbaum stated that the “Phase III” site plan was for future projections, and did not imply they would be building it at this time. Mr. Rosenbaum stated that the “Phase III” site plan was provided on the chance they would expand in the future, and that it was “sort of an ultimate site plan.”

Chair Jeff Wilson asked if the conditions were the same as in 2004. Barrick Rosenbaum responded that there were a few more subdivisions now that were not in place at that time. Mr. Rosenbaum stated that, regarding the south 10 acres, he had “no idea what that will be used for,” but that it may “help with financing,” or the church may “save it for some kind of future use.”

Darrell Mullins expressed interest in making a Motion to Approve. Chair Jeff Wilson stated that there were people signed up to speak on the item.

Chair Jeff Wilson recognized Jack DeLaughter of 9607 E. 102nd St. S. from the Sign-In Sheet. Mr. DeLaughter stated that he had no problem with the church itself. Mr. DeLaughter stated that he had moved into his residence a little over one (1) year ago. Mr. DeLaughter stated that he had a few issues [with the proposed development], including the setback for “Phase III,” which the site plan showed as 25’ from 103rd St. S. Mr. DeLaughter asked, “If there’s so much land, why push so close?” Mr. DeLaughter stated that his second issue was, “Why take out so many trees?” Mr. DeLaughter stated that his third issue was the traffic on Mingo, and stated that the 111th [St. S.] and Mingo [Rd. intersection] was “a nightmare.” Mr. DeLaughter expressed concern over added traffic. Mr. DeLaughter returned to his seat.

Responding to Jack DeLaughter’s comment, Erik Enyart addressed Chair Jeff Wilson and stated that, for the 111th St. S. and Mingo Rd. intersection, the City has a Federal grant to improve the intersection, which uses a City Bond Issue as matching funds, and that the City was waiting for its turn for the grant money.

Jack DeLaughter asked if there would be a [stop]light at [the 103rd St. S. and Mingo Rd. intersection]. Erik Enyart responded, “Not at this time.” Mr. DeLaughter expressed concern over traffic congestion and stated, “The street is falling apart.”

Chair Jeff Wilson recognized Scott Martin of 9647 E. 107th St. S. from the Sign-In Sheet. Mr. Martin expressed concern that the owner, on the “unbuilt” land, would “bulldoze out the trees.”

Barrick Rosenbaum responded that the owner would “not strip out the trees due to the costs.” Mr. Rosenbaum stated that the [southerly] 10 acres would be unplatted land for future use or an addition to enlarge the church [campus].

A question was asked as to what the undeveloped land could be developed for. Erik Enyart responded, “Under the Comprehensive Plan and likely zoning, the highest and best use likely is residential, or, as Barrick Rosenbaum said, if needed, a subsequent Special Exception for church expansion.” Mr. Enyart stated, “If approved with the Conditions of Approval as recommended, the approval would only attach to the part they build on.”

Chair Jeff Wilson recognized Jessica Highfill of 10497 S. 95th E. Pl. from the Sign-In Sheet. Ms. Highfill declined to speak.

Darrell Mullins stated, “I remember when the land was bought, and the signs were put up.” Mr. Mullins remarked about how long it had been that the church had been planned for the subject property.

A man who did not sign the Sign-In Sheet, who later identified himself as “Erlin Plunders (?)” asked about the 40’ setback shown from *Legends [II]*, but only a 25’ setback from 103rd St. S., and about how close parking could be placed in relation to these property lines. Erik Enyart responded that the setbacks represented on the site plans were Building Lines, and applied to how close buildings could be placed from these lines. Mr. Enyart stated that parking could be closer, but was also subject to setbacks. Mr. “Plunders” or another person asked if Mingo Rd. was going to be widened. Mr. Enyart stated that it was not listed as a widening project for the foreseeable horizon, but it was an arterial street and would ultimately be widened. Mr. Enyart noted that this was a boundary between Bixby and Broken Arrow and, as best he could tell, was not in the City Limits of either city, and so was a County Road. Mr. Enyart stated that, in the future, when it is widened, it “would be the County doing the widening.”

Chair Jeff Wilson asked to entertain a Motion. Darrell Mullins made a MOTION to APPROVE BBOA-582, subject to the Conditions of Approval as listed in the Staff Report as follows:

1. If the subject property is divided, the Use Unit 5 church approval shall only attach to the lot or lots on which the church campus is constructed.
2. Subject to the approval of a plat, or otherwise City Council approval of a Waiver of platting, which would be based on the provision of right-of-way and utility and other necessary easements by separate instrument.
3. Staff recommends that driveway / curb cut locations, drive widths, and curb return radii be approved by the Fire Marshal, City Engineer, and County Engineer as may be required.

Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Wilson, Mullins, Whiteley, & Hill
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

3. **BBOA-583 – Rosenbaum Consulting, LLC for Woodlake Assembly of God.**

Discussion and possible action to approve a Variance from certain landscaping tree requirements of Zoning Code Section 11-12-3.C for property in an AG Agricultural District.

Property located: Part of the E/2 of the E/2 of Section 25, T18N, R13E; Southwest corner of the intersection of 104th St. S. (a.k.a. 103rd Pl. S.) and Mingo Rd.

Chair Jeff Wilson introduced the item. Erik Enyart noted that the Applicant had verbally Withdrawn the application prior to the meeting. Barrick Rosenbaum indicated agreement. No action taken.

The audience, except Lee and Twilah Fox, left at this time.

4. **BBOA-584 – Twilah Fox.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow a Use Unit 5 church in an RS-1 Residential Single-Family District.

Property located: Part of the SW/4 of the SW/4 of Section 14, T17N, R13E; 15025 S. Sheridan Rd.

Chair Jeff Wilson introduced the item and called on Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

To: Bixby Board of Adjustment
From: Erik Enyart, AICP, City Planner
Date: Monday, December 23, 2013
RE: Report and Recommendations for:
BBOA-584 – Twilah Fox

LOCATION: – 15015 S. Sheridan Rd. (parent tract)
– 15025 S. Sheridan Rd. (proposed 1-acre tract per BL-389)
– Part of the SW/4 of the SW/4 of Section 14, T17N, R13E
SIZE: – 8 ½ acre, more or less (parent tract)
– 1 acre, more or less (proposed 1-acre tract per BL-389)
ZONING: AG General Agricultural District (RS-1 Residential Single-Family District requested per BZ-369)
SUPPLEMENTAL ZONING: Corridor Appearance District (strip along south line only)
EXISTING USE: Use Unit 5 church
REQUEST: Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow an existing Use Unit 5 church in an RS-3 Residential Single-Family District
SURROUNDING ZONING AND LAND USE:
North: AG; Unplatted rural residential along 149th / 148th St. S. in an unplatted subdivision possibly known as “Abbett Acres” and agricultural land north of that.

South: RS-1, CS, & AG; The Applicant's residence on a 0.81-acre tract zoned RS-1, the Leonard & Marker Funeral Home zoned CS and AG, and 151st St. S. to the south of that.

East: RS-1 and AG; The Applicant's residence on a 0.81-acre tract zoned RS-1 and unplatted rural residential along 149th / 148th St. S. and 68th E. Ave. in an unplatted subdivision possibly known as "Abbett Acres."

West: (Across Sheridan Rd.) AG & RS-3/PUD 72; Rural residential homes on 1+ acre tracts, with agricultural land beyond to the west. The Southridge at Lantern Hill residential subdivision is to the northwest, zoned RS-3 with PUD 72.

COMPREHENSIVE PLAN: Corridor + Vacant, Agricultural, Rural Residences, and Open Land
PREVIOUS/RELATED CASES:

BBOA-137 – Lee Fox – Request for Special Exception to allow a mobile home on a previously 10.3-acre tract, of which the subject property is a part – BOA Denied 12/10/1984.

BBOA-137 – Twilah A. Fox, M.D. – Request for Special Exception per Zoning Code Section 310 to allow a Use Unit 5 church (now or previously the Church on the Hill) on the Southwest approximately 1.16 acres of a previously 10.3-acre tract, of which the subject property is a part – BOA Approved 09/04/1990.

BBOA-293 – Lee & Twila[h] Fox – Request for Variance from the minimum size and width bulk and areas standards of the AG district, to allow a Lot-Split (BL-184) on a previously 10.3-acre tract, of which the subject property is a part – BOA Approved 04/17/1995.

BL-184 – Joe Donelson for Lee & Twilah A. Fox – Request for Lot-Split approval to separate a 1-acre tract at 6668 E. 148th St. S. from an original tract of 10.3 acres, of which the subject property is a part – PC Approved 04/17/1995.

BBOA-345 – Twilah Fox – Request for "Special Exception" from Zoning Code Section 310 to allow a Use Unit 9 mobile home to be temporarily placed in the AG district on subject property – BOA Conditionally Approved 07/06/1999.

BZ-356 – K.S. Collins for Lee & Twilah A. Fox – Request for rezoning from AG to RS-1 for a 0.81-acre tract separated from subject property per BL-384 – PC Recommended Approval 05/21/2012 and City Council Approved 06/11/2012.

BL-384 – K.S. Collins for Lee & Twilah A. Fox – Request for Lot-Split approval to separate a 0.81-acre tract from the subject property parent tract – PC Conditionally Approved 05/21/2012.

BZ-369 – Lee & Twilah A. Fox – Request for rezoning from AG to RS-1 for proposed 1-acre tract subject property – PC Recommended Approval 12/16/2013 and City Council consideration pending 01/13/2014.

BL-389 – Lee & Twilah A. Fox – Request for Lot-Split to separate proposed 1-acre tract subject property – PC Conditionally Approved 12/16/2013.

RELEVANT AREA CASE HISTORY: (not necessarily a complete list)

BZ-283 – Mike Marker – Request for rezoning from AG to CS for the 1.3-acre tract abutting subject property to the south and containing the Leonard & Marker Funeral Home main building – PC Recommended Approval 02/19/2002 and City Council Approved 03/11/2002 (Ord. # 848).

BBOA-381 – Mike Marker – Request for Variance from the parking standards of Zoning Code Chapter 10 Section 1011.4 for the 1.3-acre tract abutting subject property to the south and containing the Leonard & Marker Funeral Home main building – BOA Approved Variance, to include requiring 62 parking spaces, 05/06/2002.

BZ-199 – Dan Stilwell – Request for rezoning from RMH to CG for approximately 3 ¾ acres located to the southeast of subject property – now includes the commercial properties containing the Bixby Chiropractic and (existing or former) Living Water Family Church establishment buildings at 7100, 7102, and 7106 E. 151st St. S. – PC recommended Approval 05/18/1992 and City Council Approved 05/25/1992 (Ord. # 667). However, the legal description used does not close and the ordinance did not contain the approved Zoning District. The official Zoning Map reflects CS instead of CG. Needs to be corrected upon initiative effort of one or more of the affected property owners.

BZ-287 – Randy King – Request for rezoning from AG to CG for a 4-acre tract to the east at 6825 E. 151st St. S. – PC (09/16/2002) Recommended Denial and suggested that the item be brought back as a PUD; denial recommendation evidently not appealed to City Council.

BZ-291 – Cleatus & Deloris Tate – Request for rezoning to CG for approximately 16 acres located to the west of subject property for the Allison Tractor Co. Inc. tractor sales business – PC (06/20/2003) recommended Approval for 4.6 acres as per the amended reduced acreage request and

City Council (07/14/2003) approved as recommended/amended (Ord. # 870). Zoning acreage reduction amendment letter dated 06/18/2003 additionally requested a "plat waiver," but Staff found no record of such being approved at that time. See Plat Waiver granted 04/14/2008.

BZ-333 – Lantern Hill, LLC – Request for rezoning from AG to RS-3 for a 40-acre tract located across Sheridan Rd. to the northwest of the subject property (Lantern Hill / Southridge at Lantern Hill residential subdivision) – PC recommended Approval 07/16/2007 and City Council Approved 08/13/2007 (Ord. # 974).

PUD 72 – Southridge at Lantern Hill – Lantern Hill, LLC – Request for PUD approval for the Lantern Hill subdivision to the northwest of subject property, to allow it to be replatted as Southridge at Lantern Hill – PC recommended Conditional Approval 08/20/2012 and City Council Conditionally Approved 08/27/2012, including as Conditions certain requirements for minimum house construction and design quality (Ordinance # 2089; Applicant submitted, on 12/20/2012, the final PUD version incorporating corrections and Conditions of Approval and the City Council reapproved same on 01/14/2013 by Ordinance # 2108, which repealed previous approving Ordinance # 2089).

BACKGROUND INFORMATION:

Per BZ-356 and BL-384 in 2012, the Applicant rezoned to RS-1 and split an approximately 0.81-acre "flag-lot," containing the Applicant's dwelling, from the subject property parent tract, which now contains approximately 8 ½ acres. The Applicant is now proposing, per BL-389, to split a 1-acre tract with a church campus (now or previously known as the Church on the Hill), to allow it to be sold for church use. As the proposed 1-acre tract is too small to meet the bulk and area requirements of the AG district so, as Staff advised, the Applicant is requested to rezone the 1-acre tract to an RS-1 district, matching the previously-established RS-1 district, so that it will conform to the Zoning Code and can be approved for Lot-Split. The balance of the parent tract contains agricultural land and will remain zoned AG.

In preparation for the Lot-Split and sale of the church with the 1-acre tract, the Applicant is working with the buyer's and seller's real estate agents to separate utilities and has requested a separate address for the church. By letter dated December 05, 2013, Staff assigned the address 15025 S. Sheridan Rd. to the church, which address will be associated with the 1-acre tract upon and presuming Lot-Split approval. Staff has also advised the Applicant to ensure that easements or other acceptable agreements secure, for all involved properties, continued legal access to Sheridan Rd., continued access to existing drives irrespective of existing or proposed lot lines if/as planned, and continued access to the private septic system (lagoon) in the northeast corner of the subject property parent tract, or otherwise other sewerage service as may be required.

On December 16, 2013, the Planning Commission recommended Approval of BZ-369 and Conditionally Approved BL-389 as recommended by Staff. The Conditions of Approval included the City Council's approval of the requested RS-1 zoning and securing access and easements as may be necessary between the buyer and seller.

Per BBOA-137 – Twilah A. Fox, M.D., on September 03, 1990, the Board of Adjustment approved a Special Exception per Zoning Code Section 310 to allow a Use Unit 5 church (now or previously the Church on the Hill) on the Southwest approximately 1.16 acres of what was then a 10.3-acre tract, of which the subject property is a part.

Zoning Code Section 11-11-3 provides, in relevant part, "When at the effective date hereof or amendment thereto, there exists a lawful use of a building, or use of a principal building and land, or use of land and accessory structures, such structures covering more than ten percent (10%) of the lot area, and such use would not be permitted by the terms of this title or amendment thereto, such use shall be deemed nonconforming and may continue subject to the following provisions." (emphasis added)

A rezoning constitutes an amendment to the Zoning Ordinance / Zoning Code itself. It is possible the Use Unit 5 use approved in 1990 for 1.16 acres of a former tract will become legally nonconforming upon Lot-Split and rezoning to RS-1. The buyer has expressed interest, through their real estate agent, to secure a Special Exception, to be relieved of nonconforming use restrictions that may be applicable. The seller has agreed to request this Special Exception to mitigate this possible outcome.

ANALYSIS:

Subject Property Conditions. The subject property parent tract is part of a ridgeline along Sheridan Rd. and contains significant slope. It appears to drain to the north, east, and south, ultimately to Bixby Creek. It is zoned AG and appears to be agriculturally-used, with the exception of a church campus

(now or previously known as the Church on the Hill) at the southwest corner of the property. It also contains two (2) sizeable ponds toward the north end of the property, the easterly of which is a septic lagoon system serving, at least, the church and the Applicant's residence on the abutting 0.81-acre tract. The subject property is located within an unplatted subdivision occupying the SW/4 SW/4 of this Section 14, T17N, R13E, which, according to certain records, including the subject property's legal description, may go by the name "Abbett Acres."

The subject property parent tract has 645.84' of frontage on Sheridan Rd., and 509.75' of frontage on 149th / 148th St. S. The name of the street is not clear, as it curves south and then back east as one approaches S. 68th E. Ave., and as there are houses on either side of the road which are alternately addressed on "149th" and "148th" Streets South, with no apparent correspondence with the disjointed trajectory. Per available records, this road is private; it does not appear to be dedicated and has no public or private right-of-way attendant. There may or may not be easement(s) attending the roadways.

The proposed 1-acre tract with the church is located in the southwest corner of the parent tract acreage, and has the church building, a parking lot in front/west of the building, and a gated driveway connecting to Sheridan Rd. which it shares with the Applicant's 0.81-acre tract to the south. It would have 222.24' of frontage on Sheridan Rd. upon Lot-Split approval.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Corridor and (2) Vacant, Agricultural, Rural Residences, and Open Land.

The existing Use Unit 5 church should be considered not inconsistent with the Comprehensive Plan. Surrounding Zoning and Land Use Compatibility. Surrounding zoning patterns are primarily RS-1, AG, CS, CG, and RS-3.

Areas to the north, east, and southeast are unplatted rural residential along 149th / 148th St. S. in an unplatted subdivision possibly known as "Abbett Acres." Agricultural land is also to the north.

To the south, the Leonard & Marker Funeral Home is zoned CS and AG and 151st St. S. is to the south of that.

The Applicant's 0.81-acre tract is abutting to the south and east and is zoned RS-1.

Finally, to the west (across Sheridan Rd.) are rural residential homes on 1+ acre tracts, with agricultural land beyond to the west, all zoned AG, and the Southridge at Lantern Hill residential subdivision is to the northwest, zoned RS-3 with PUD 72.

Staff believes that the Use Unit 5 church use has been and will continue to be compatible with existing and future surrounding land uses and zoning patterns. Staff would normally recommend that any future major building or use expansions be properly planned for by means of platting and Detailed Site Plan approval. However, the church site is already developed and expansions are unlikely due to the 1.0 acre lot size and existing topographic and other physical site features. Expansion of the church would likely involve expanding onto another tract or tracts of land, which would require a new Special Exception, and platting and site planning approval requirements could be imposed on such future application(s).

Staff Recommendation. Based on the Comprehensive Plan and surrounding zoning and land use patterns, Staff believes that the proposed Use Unit 5 church use would be in harmony with the spirit and intent of the Zoning Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff recommends Approval.

A Board Member asked if the church had not already been approved, and Erik Enyart responded that it was in the year [1990]. Twilah Fox indicated that the church was built around that time. Mr. Enyart stated that the owners had agreed to sell one (1) acre with the church, but that, in the current AG district, the lot would have to be a minimum of 2.2 acres in land area. Mr. Enyart stated that, consequently, the property was being rezoned to RS-1, and was Conditionally Approved for a Lot-Split in December. Mr. Enyart stated that, upon rezoning to RS-1 and the Lot-Split, the use will become legally nonconforming, as the Residential districts are, for one, generally more restrictive than the AG district. Mr. Enyart stated that the buyer expressed desire to have a new approval, so that the nonconforming use / grandfathering rules do not prohibit future Building Permits which may be sought to improve the structure or do an expansion.

Chair Jeff Wilson asked if the Applicant was present and wished to speak on the item. Applicants Lee and Twilah Fox were present. Mr. Fox indicated interest in having the application approved.

Chair Jeff Wilson made a MOTION to APPROVE BBOA-584. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	King, Wilson, Mullins, Whiteley, & Hill
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	5:0:0

ADJOURNMENT

Chair Jeff Wilson asked to entertain a Motion to Adjourn. Larry Whiteley made a MOTION to ADJOURN. Darrell Mullins SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	King, Wilson, Mullins, Whiteley, & Hill
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	5:0:0

The meeting was Adjourned at 6:27 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary